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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 08/947,080      | 10/08/97    | CHISHTI              | 18563-000110        |

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EXAMINER

WILSON, J

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 03/11/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/947,080

Applicant(s)

Chishti et al.

Examiner

John J. Wilson

Group Art Unit

3732



☒ Responsive to communication(s) filed on Jan 12, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-44 is/are pending in the applicat

Of the above, claim(s) 19-44 is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 2, 4-8, and 10-17 is/are rejected.

☒ Claim(s) 3, 9, and 18 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6 & 9

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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### **DETAILED ACTION**

Claims 19-44 stand withdrawn from further consideration by the examiner, 37

CFR 1.142(b) as being drawn to a non-elected invention. Election was made **without** traverse in Paper No. 10.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Miura.

Miura teaches that it is known to use 7 to 8 different appliances, column 1, lines 35 and 36.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 5, 6 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura. Miura teaches using 7 to 8 different appliances to move teeth. The exact number of appliances used is held to be an obvious matter of choice in the duplication of a known structure and of known method steps to one of ordinary skill in the art. As to claim 13, the interval of time for the appliances to be used is an obvious matter of choice in a known parameter in order to move the teeth a desired amount.

Claims 1, 2, 4-8 and 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breads et al in view Miura. Breads teaches two shell appliances, column 16, lines 25-40. Breads does not show more than two. To include more than two appliances is an obvious matter of duplication of a known structure. Further, Miura teaches that it is known to use more than two of a known structural appliance to move teeth. It would also be obvious to one of ordinary skill in the art to modify Breads to include more than two appliances as shown by Miura in order to move the teeth to the desired positions. As to the method claims, Breads teaches that it is known to move teeth in two steps using two different appliances, however, does not teach more than two. Miura teaches a method of using 7 to 8 appliances to move teeth. It would be obvious to one of ordinary skill in the art to modify Breads to include using more than two appliances to move the teeth to the desired position as taught by Miura. The exact number of appliances and of steps used to move the teeth are an obvious matters of choice in the duplication of a known structure and known method step to the skilled artisan.

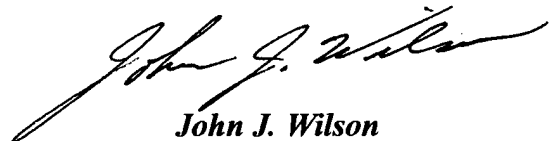
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***Allowable Subject Matter***

Claims 3, 9 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication should be directed to John Wilson at telephone number (703) 308-2699.



**John J. Wilson  
Primary Examiner  
Art Unit 3732**

jjw  
March 4, 1999